

The Labor and Employment Law Section **20th Annual Meeting**

Public and Private

Union and Management

Plaintiff and Defense

In-House and Neutral



November 15 & 16, 2002
Wyndham Hotel
San Jose, California

Earn up to 11.5 Hours MCLE Credit

*The State Bar of California and the Labor and
Employment Law Section are State Bar of California
MCLE Approved Providers*

Program

FRIDAY, NOVEMBER 15, 2002

8:00 – 8:45 am Continental Breakfast/Registration

8:45 – 9:00 am Welcome

Carol A. Vendrillo, Director, California Public Employee Relations Program, Institute of Industrial Relations, U.C. Berkeley and Chair of the Executive Committee of the Labor and Employment Law Section of the State Bar

General Session

9:00 – 10:30 am

The Singing Judge

“Weakened Update”

A Somewhat Humorous Update On New Labor And Employment Law Developments During The Past Year
(1.5 Hours MCLE Credit)

The, Not Ready For SNL, Speakers:

Henry J. Josefsberg, Law Offices of Henry J. Josefsberg, Long Beach

Tyler M. Paetkau, Partner, Bingham McCutchen LLP, Silicon Valley, Incoming Vice-Chair of Executive Committee of the Labor and Employment Law Section of the State Bar

10:30 – 10:45 am BREAK

Concurrent Sessions

10:45 – 12:00 pm

[1] “The Continuing Violations Doctrine: From Accardi to Birschstein”

- What Is A Continuing Violation
 - When Does The Clock Start Ticking
 - How Long Does The Clock Tick
- (1.25 Hours MCLE Credit)

PANELISTS:

Karen E. Pointer, Partner, Lerman & Pointer, Los Angeles

Paul W. Cane, Jr., Partner, Paul, Hastings, Janofsky & Walker LLP, San Francisco

PANEL MODERATOR:

Rupert A. Byrdson, Partner, Ivie McNeill & Wyatt, Los Angeles

10:45 – 12:00 pm

[2] “Odd Things That Mediators Do That Sometimes Work and Choosing the Right Mediator”

(1.25 Hours MCLE Credit)

PANELISTS:

Deborah Rothman, Mediator/Arbitrator, Santa Monica

Linda Hendrix McPharlin, McPharlin, Sprinkles & Thomas, LLP, San Jose

Carla D. Barbosa, Barbosa & Associates, Los Angeles

PANEL MODERATOR:

Toni J. Jaramilla, Law Offices of Toni J. Jaramilla, Los Angeles

10:45 – 12:00 pm

[3] A Practical Approach to Understanding COBRA and HIPPA

- A Basic Introduction To COBRA
 - Technical Violations vs. Real Issues Of Liability Under COBRA
 - When Does “California COBRA” Apply
 - What Is The HIPPA Certificate Of Credible Coverage
 - Discussion Of HIPPA's Privacy Rules
- (1.25 Hour MCLE Credit)

PANELISTS:

Elizabeth R. Lishner, Law Office of Elizabeth R. Lishner, Santa Monica

Lynn B. Witte, Of Counsel, Seyfarth Shaw, Los Angeles

PANEL MODERATOR:

Larry A. Minsky, Law Office of Larry A. Minsky, Cerritos

10:45 – 12:00 pm

[4] “Permissible and Non-Permissible Use of Social Security Numbers”

(1.25 Hour MCLE Credit)

PANELIST:

Lisa W. Pau, Van Bourg, Weinberg, Roger & Rosenfeld, Oakland

Anthony J. Oncidi, Partner, Proskauer Rose LLP, Los Angeles

PANEL MODERATOR:

Wendy P. Rouders, Arbitration and Mediation, Fulton

12:00 – 1:00 pm

LUNCH

“At the Bargaining Table for the WNBA”

(1 Hour MCLE Credit)

Sonja Henning, Professional Basketball Player and President of the Players’ Union

General Session

1:00 – 3:00 pm

The Singing Judge

Wage and Hour Update: “Where Are We Two Years After AB60”

- Hidden Minimum Wage Issues
 - Meal Periods And Breaks
 - Breaks On Construction Sites
 - Overtime Exemptions
 - Class Action Litigation
 - And More
- (2 Hours MCLE Credit)

PANELISTS:

Miles Locker, Staff Counsel, Division of Labor Standards Enforcement

David Borgen, Partner, Saperstein, Goldstein, Demchak & Baller, Oakland

Michael J. Loeb, Partner, Bingham McCutchen LLP, San Francisco

PANEL MODERATOR:

Tony R. Skogen, Managing Shareholder, Littler Mendelson, Los Angeles

3:00 – 3:15 pm	BREAK
General Session 3:15 – 5:00 pm	<p>“Corporate Counsel: Top Ten Issues Facing In-House and Union Staff Counsel”</p> <ul style="list-style-type: none"> • What Every CEO, President, And CFO Should Do And Know After Enron • Coordinating The Experts: Accountants, Consultants, Attorneys • How To Deal With Multi-State Operations <p>(1.75 Hours Ethics MCLE Credit)</p> <p>PANELISTS:</p> <p>Renee Bowser, Assistant General Counsel, United Food and Commercial Workers International Union, AFL-CIO, Washington, D.C.</p> <p>Nestor Barrero, Vice-President and Employment Law Counsel, Universal Studios, Inc., Universal City</p> <p>PANEL MODERATOR:</p> <p>Karen V. Clopton, Chief of Operations and Corporate Counsel, San Francisco State University Foundation, San Francisco</p>
5:00 – 6:30 pm	COCKTAIL RECEPTION

SATURDAY, NOVEMBER 16, 2002

8:00 – 9:00 am	Continental Breakfast/Registration
General Session 9:00 – 10:00 am	<p>The Singing Judge</p> <p>“How To Get A Plaintiff’s Verdict In An Employment Case”</p> <p>(1 Hour MCLE Credit)</p> <p>SPEAKER:</p> <p>Dan L. Stormer, Partner, Hadsell & Stormer Inc., Pasadena</p>
10:00 – 10:15 am	Break
General Session 10:15 – 11:15 am	<p>“How To Get A Defense Verdict In An Employment Case”</p> <p>(1 Hour MCLE Credit)</p> <p>SPEAKER:</p> <p>William C. Price, Partner, Quinn Emanuel Urquhart Oliver & Hedges, LLP, Los Angeles</p>
11:15 – 11:30 am	Break
General Session 11:30 – 12:30 pm	<p>“Attorney Civility In and Out of the Courtroom”</p> <p>(1 Hour Ethics MCLE Credit)</p> <p>PANELISTS:</p> <p>Helen M. Carasso, Associate Counsel, Beckman Coulter, Inc., Fullerton</p> <p>Andrew Guilford, Partner, Sheppard Mullin Richter & Hampton LLP, Orange County, Past President of the State Bar of California</p> <p>PANELIST MODERATOR:</p> <p>J. Anthony Vittal, Partner, Finestone Richter & Vittal, Los Angeles</p>
12:30 – 1:30 pm	<p>LUNCH</p> <p>“Current Direction and Hot Topics At The EEOC”</p> <p>(1 Hour MCLE Credit)</p> <p>Paul M. Igasaki, Attorney of the EEOC, Washington, D.C.</p>
General Session 1:30 – 2:30 pm	<p>“The Business Case for Diversity and Inclusion: The Dollars and Cents of Difference”</p> <p>(1 Hour MCLE Credit)</p> <p>SPEAKER:</p> <p>Gerald A. Fernandez, President, The MultiCultural Foodservice & Hospitality Alliance (MFHA), an educational non-profit organization that promotes the economic benefits of multicultural diversity in the restaurant, food service, and lodging industries, Providence, RI</p>
2:30 – 2:45 pm	BREAK

Concurrent Sessions

2:45 – 3:45 pm	<p>[5] “Examining The Most Recent Cases And Legislative Changes Impacting The Public Sector”</p> <p>Our Public Sector Employment Law Attorneys Will Bring You Up To Date On The Most Recent Court Decisions, Labor And Employment Laws And Legal Trends Affecting Public Sector Employers. Hear The Latest On:</p> <ul style="list-style-type: none">• Free Speech And Employee Discipline: What Are The New Rules• The Rebirth Of Union Activism And Political Clout In The Public Sector• Workplace Privacy After 9/11: What's Different• Religion In The Public Workplace: Balancing Employee Rights And Constitutional Restrictions• Is There A Monetary Remedy From A Public Agency For Denial Of Constitutional Rights <p>(1 Hour MCLE Credit)</p> <p>PANELISTS:</p> <p>Eric M. Borgerson, Board Counsel, Public Employment Realtions Board, Sacramento</p> <p>Martin Joel Fassler, Of Counsel, Law Office of Robert Bezemek, Oakland, and Editor of the California Labor and Employment Law Quarterly</p> <p>Jaffe Dickerson, Shareholder, Littler Mendelson, Los Angeles</p> <p>PANEL MODERATOR:</p> <p>Carol A. Vendrillo, Director, California Public Employee Relations Program, Institute of Industrial Relations, U.C. Berkeley and Chair of the Executive Committee of the Labor and Employment Law Section of the State Bar, Berkeley</p>
2:45 – 3:45 pm	<p>[6] “Incentive Pay: How Employment Laws Regulate Commissions, Bonuses, and Stock Options”</p> <ul style="list-style-type: none">• Are There Still Golden Handshakes• Are Hourly Employees Treated The Same As Salaried Employees• What About The Taxes <p>(1 Hour MCLE Credit)</p> <p>PANELISTS:</p> <p>Richard D. Schramm, Managing Attorney, Employment Rights Attorneys, San Jose</p> <p>Raymond H. Hixson, Jr., Partner, Fenwick & West, Palo Alto</p> <p>PANEL MODERATOR:</p> <p>Linda Baldwin Jones, Partner, Van Bourg, Weinberg, Roger & Rosenfeld, Oakland</p>
2:45 – 3:45 pm	<p>[7] “Increasing and Decreasing Lodestar Attorneys’ Fees: Rejection of Settlement Offers, Contingency Risk and Other Factors”</p> <ul style="list-style-type: none">• The Multiplier Issue After Ketchum v. Moses• Whether An Informal Settlement Offer Can Be Considered In Determining Whether Attorneys’ Fees After The Offer Are Reasonable (Green v. Dillingham)• Apportionment of Fees Between Winning and Losing Causes <p>(1 Hour MCLE Credit)</p> <p>PANELISTS:</p> <p>Sanford J. Rosen, Partner, Rosen, Bien & Asaro, San Francisco, and Appellate Attorney of Record for the Plaintiff in <u>Green v. Dillingham</u> and the Plaintiff on Appeal in <u>Meister v. Regents of UC</u></p> <p>Paul S. Avilla, Partner, McPharlin, Sprinkles & Thomas LLP, San Jose, and Represented the Defendant in <u>Green v. Dillingham</u></p> <p>PANEL MODERATOR:</p> <p>Rosario M. Tobias, Partner, Alvarado Smith & Sanchez, Los Angeles</p>
3:45 – 4:00 pm	<p>BREAK</p>
General Session 4:00 – 5:00 pm	<p>“The New Super Agency: The Labor and Workforce Development Agency (LWDA)”</p> <ul style="list-style-type: none">• What Is It• Plans And Expectations For The Immediate Future• How The Agency May Change Labor Policy And Labor Standards Enforcement In The State of California <p>(1 Hour MCLE Credit)</p> <p>SPEAKER:</p> <p>Stephen J. Smith, Acting Secretary of Labor, Sacramento</p> <p>Introduction by John Cumming, Counsel, Industrial Relations Department, San Francisco</p>
5:00 – 5:05 pm	<p>CONCLUDING REMARKS</p>

SUNDAY, NOVEMBER 17, 2002

8:00 – 9:00 AM	CONTINENTAL BREAKFAST
8:30 – 9:30 AM	LABOR & EMPLOYMENT LAW SECTION EXECUTIVE COMMITTEE MEETING
9:30 – 10:30 AM	QUARTERLY EXECUTIVE COMMITTEE MEETING

PROGRAM REGISTRATION FORM

Bar # _____

Name _____

Firm/Organization _____

Address _____

City, State, Zip Code _____

Phone _____ Fax _____

E-mail _____

Badge Information

First Name or Nickname (as you wish it to appear on your badge) limit to 20 characters

Spouse/Guest Name _____

Identify Your Practice _____

(Public, private, plaintiff, defense, union, management, in-house, neutral)

Your name and address may be disclosed to other 2002 Annual Meeting attendees and exhibitors/vendors.

REGISTRATION FEES

(Includes: Conference Registration, program materials, Friday and Saturday Continental Breakfast and Luncheons)

- ☐ Labor and Employment Law Section Members \$350
- ☐ Non-section Members \$425
- ☐ Full-time Law Students \$25

- ☐ Please credit \$60 of my non-member registration fee to my
2003 Section dues.

AMOUNT ENCLOSED/TO BE CHARGED \$ _____

COURSE SELECTOR

Please check the appropriate box of the programs you plan to attend:

Friday, November 15, 2002

10:45 a.m. - 12:00 p.m.

- ☐ [1] "The Continuing Violations Doctrine: From Accardi to Birschstein"
- ☐ [2] "Odd Things That Mediators Do That Sometimes Work and Choosing the Right Moderator"
- ☐ [3] "A Practical Approach to Understanding COBRA and HIPPA"
- ☐ [4] "Permissible and Non-Permissible Use of Social Security Numbers"

Saturday, November 16, 2002

2:45 p.m. - 3:45 p.m.

- ☐ [5] "Examining The Most Recent Cases and Legislative Changes Impacting The Public Sector"
- ☐ [6] "Incentive Pay: How Employment Laws Regulate Commissions, Bonuses, and Stock Options:"
- ☐ [7] "Increasing and Decreasing Lodestar Attorneys' Fees: Rejection of Settlement Offers, Contingency Risk and Other Factors"

CREDIT CARD INFORMATION (VISA/MASTERCARD ONLY)

I/we authorize the State Bar of California to charge my/our program registration to my/our VISA/MasterCard account. (No other credit cards will be accepted.)

Account Number _____

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LABOR AND EMPLOYMENT LAW ANNUAL MEETING

As labor and employment law practitioners - in private and public practice, within companies and unions, and in the ADR realm - we, like the rest of the world, are seeing the very way we live and do business change almost daily. What do we need to know to practice in our changing field today, and tomorrow? The Annual Meeting this year focuses not only on recent changes in labor and employment law and the practical implications of those changes, but also on what the future may hold in our field and how we can prepare for it.

The Wyndham Hotel, San Jose is close to all the exciting attractions San Jose has to offer: the San Jose McEnery Convention Center, San Jose Arena, Tech Museum of Innovation, Children's Discovery Museum, Museum of Art, Egyptian Museum, Planetarium, Paramount's Great America and a variety of Shops and restaurants. In the heart of Silicon Valley, 50 miles south of San Francisco and 60 miles north of Monterey and Carmel, the Wyndham Hotel San Jose, with its spacious, attractive, and comfortable rooms, provides all of the amenities one expects from a premier hotel.

Labor and Employment Law Section
20th Annual Meeting Program Committee

Chair, Tony Skogen, Esq.
Littler Mendelson

An aerial photograph of the San Jose skyline, featuring several tall skyscrapers and a large stadium with a distinctive dome. The image is overlaid with a semi-transparent dark blue rectangle containing white text.

The Labor and Employment Law Section **20th Annual Meeting**

November 15 & 16, 2002
Wyndham Hotel – San Jose, California

PROGRAM REGISTRATION INFORMATION

REGISTRATION:

Registration fees include admission to the Friday-Saturday MCLE-accredited programs, Friday-Saturday continental breakfasts, luncheons and afternoon breaks, Friday night reception and the program materials. Registration fees are \$350 for members of the Labor & Employment Law Section of the State Bar of California, \$425 for non-members and \$150 for full-time law students. **Your registration must be received no later than November 8, 2002.** Return the program registration with your payment as follows:

By Mail:

Please send your completed registration form and check payable to the State Bar of California/E482SAM: Program Registrations, The State Bar of California, 180 Howard Street, San Francisco, CA 94105-1639.

By Fax:

Please fax your registration form with you Credit card information to Program Registrations at (415) 538-2368 **by November 8, 2002.** Only faxes accompanied with the appropriate Credit card information will be processed.

CANCELLATIONS/REFUNDS:

A refund, less a non-refundable fee of \$50 will be made to all registration cancellations received in writing by November 8, 2002. Substitute registrants are allowed but must register in their own name at the meeting to receive MCLE credit.

HOTEL RESERVATIONS:

A limited number of rooms has been reserved at the Wyndham Hotel, San Jose, California at a special rate of \$109 plus tax per night. For reservations, please call the hotel directly at 800.538.6818 no later than October 24, 2002. Reservations made after the October 24th cutoff will be taken on a space-and- rate-available basis. Be sure to mention you are with the State Bar of California Labor and Employment Law Section's 20th Annual Meeting to obtain the group rate. Each registrant is responsible for his or her own reservations.

AIRLINE DISCOUNTS:

The State Bar of California has a discount program with United Airlines. The discounts are 10% off unrestricted full coach fares and 5% off any published (often restricted) fares. To make reservations or for additional information, please call the United Group Meeting Desk at (800) 521-4041 and refer to file number 550QX.

SPECIAL ASSISTANCE:

For special assistance, please call (415) 538-2585.

FOR MORE INFORMATION:

For registration information, please call Program Registrations at (415) 538-2508. For program content information, please call Theresa Raglen, Meeting & Event Administrator at (415) 538-2393.

STATE BAR EDUCATION FOUNDATION

Labor and Employment Section

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